SINGLE BENCH

(1) (2)

CF102

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P. (C)NO. 7180 /2006

PETITIONER : Salikram, S/o. Nirmal Singh Patel, aged about 66 years, resident of village – Sangitarai, Post Office – Chhatamuda, Tahsil and District – Raigarh (C.G.).

P.R. No. 22986 Presented by Shri R.P. Gadhan dated 12/12/06

VERSUS

RESPONDENTS :1. Daulat Ram Patel, S/o. Khemkaran Patel, resident of village- Sangitarai, P.O. Chhatamuda, Tahsil & District Raigarh (C.G.).

2. State of Madhya Pradesh , Now Chhattisgarh, Through Collector, Raigarh (C.G.)

3. Amrit Kunwar, widow of Virendra Kumar, aged 53 years, resident of village Bamha, Tahsil Gharghoda, District Raigarh (C.G.)

4. Kunti Bai, Wife of Mahegal Singh, aged about 38 years, resident of village Dolesara, Tahsil Gharghoda, District Raigarh (C.G.)

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OATH COMMISSIONER APARNA MALVIYA CG-2073/96 Bilaspur Chhattisgarh

5. Lalita, wife of Dorilal, aged 36 years, resident of Post Office, near Commerce College, Raigarh, District Raigarh (C.G.)

   At present resident of village Padigaon, Tahsil Raigarh, District Raigarh (C.G.)

6. Rajesh Kumar, S/o. Virendra Kumar, aged about 34 years, resident of village Bamha, Tahsil Gharghoda, District Raigarh (C.G.)

   At present of resident of Raymond, Lafarge Colony, Gopal Nagar, Bilaspur (C.G.)

7. Dinesh Kumar, Son of Virendra Kumar, aged 32 years, resident of Mukhya Pashu Chikitsalaya, Raigarh, District Raigarh (C.G.)

8. Meena, wife of Dr. Bodhiram, aged about 30 years, resident of near Chuna Bhatta, Raigarh, Tahsil and District Raigarh (C.G.).

9. Arun, S/o. Heeralal, aged about 50 years, resident of Bahma, Tahsil Lailunga, District Raigarh (C.G.)

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10. Krishna Chandra, son of Heeralal, aged about 48 years, resident of village Bahma, Tahsil Lailunga, District Raigarh (C.G.)

11. Laxmi, Son of Heeralal, aged about 46 years, resident of village- Pathalgaon, Tahsil Pathalgaon, District Raigarh (C.G.) now District- Jashpur (C.G.)

12. Padman, son of Heeralal, aged 42 years, resident village Bahma Tahsil Lailunga, District Raigarh (C.G.)

13. Ravi Bhushan, son of Kanhaiya, aged about 43 years, resident of village Sangitarai, Tahsil and District Raigarh (C.G.)

14. Bhagwati, son of Kanhaiya, aged about 40 years, resident of village- Sangitarai, Tahsil and District Raigarh (C.G.)

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15. Shyamlal, son of Mahingal Singh, aged about 70 years, resident of village Bahma, Tahsil Lailunga, District Raigarh (C.G.)

16. Nandlal, son of Mahingal Singh, aged about 68 years,

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resident of Bahma, Tahsil Lailunga, District Raigarh (C.G.)

17. Chitrabhan, S/o. Khemkaran, aged about 69 years, resident of village Bahma, Tahsil Lailunga, District Raigarh (C.G.)

18. Shivlal, son of Khemkaran, aged about 67 years, resident of village Bahma, Tahsil Lailunga, District Raigarh (C.G.)

19. Manoj, son of Padum Singh Patel, aged about 37 years,

20. Laxmi Prasad, son of Padum Singh Patel, aged about 35 years

21. Jeevan, son of Padum Singh Patel, aged about 33 years

22. Ram Pyari, widow of Padum Singh Patel, aged about 60 years,

No.19 to 22 all resident of village Bahma, Tahsil Lailunga, District Raigarh (C.G.).

23. Suresh, son of Haridhar, aged about 40 years, resident of village Bahma, Tahsil Lailunga, District Raigarh (C.G.)

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At present of resident of village Batauli, Ambikapur, District Sarguja (C.G.)

24. Rajaram, son of Haridhar, aged about 38 years, resident of village Bahma, Tahsil Lailunga, District Raigarh (C.G.)

25. Purandhar, son of Nirmal Singh, aged about 66 years, resident of village Brahma, Tahsil Lailunga, District Raigarh (C.G.)

26. Savitri Bai, widow of Nakul, aged about 57 years,

27. Shashi, wife of Baijnath, daughter of Nakul, aged about 37 years, resident of village Bahma, Tahsil Gharghoda, District Raigarh (C.G.)

At present resident of : C/o. Badri Patel, village & Post Dhanangar, Tahsil Raigarh, District Raigarh (C.G.)

OATH COMMISSIONER
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28. Chhotu @ Devendra Kumar, son of Nakul, aged about 32 years,

No. 26 & 28 both resident of village Bahma, Tahsil Gharghoda, District Raigarh (C.G.)

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29. Vijay Shankar, son of Baldev Singh, aged about 55 years, resident of village Sangitarai, Tahsil and District Raigarh (C.G.).

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

XI-HC-78

(44)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.(C).No.7180/ **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

5-1-2007

Shri Raghvendra Pradhan, learned counsel for the petitioner.

This petition is directed against the order of Annexure P/1 by which learned II Additional Civil Judge, Class-II, Raigarh has rejected the application of the petitioner under Order 6 Rule 17 of the C.P.C.

Learned counsel for the petitioner submits that the amendment sought by the petitioner/plaintiff did not change nature of the suit and the same was preferred just to explain the facts pleaded by the plaintiff in the plaint in detail, which were based on the documents which is already available on record and various applications filed by the parties.

I have heard learned counsel for the petitioner.

The suit of the plaintiff for declaration and perpetual injunction has been filed on the pleading that partition has been effected between the parties and in pursuance of the same the plaintiff is in possession, however, the defendants are trying to dispossess him, therefore, the suit has been filed.

The amendment sought by the petitioner in the plaint pertains to certain documents wherein factum of partition has been admitted by the parties and as such, the same are matter of evidence. It is settled law that in a plaint facts are required to be pleaded and not the evidence and on these grounds the Court below has rejected the application for amendment.

P.T.O.

XI-HC-78

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.(C).No. 7180/ **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Considering the fact that the application for amendment has been preferred by the plaintiff after framing of issues and commencement of trial and the facts sought to be incorporated are admittedly of the year 2003, there is no illegality or infirmity in the impugned order which requires interference under extraordinary writ jurisdiction of this Court.

In the result, the petition being devoid of substance is liable to be dismissed at the admission stage itself and is accordingly dismissed.

Sd/-
Dhirendra Mishra
Judge

P.T.O.